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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) (COMM) 38/2017, 39/2017, 40/2017, 43/2017 & 44/2017**
TRF LIMITED Appellant

Through Mr.Anil Sapra, Sr. Adv. with
 Mr.Kaushik Poddar, Mr.Kartik
 Bhardwaj, Mr.Sarthak Katyal,
 Mr.Jaideep Singh & Ms.Priyansha
 Singh, Advs.

versus

ENERGO ENGINEERING PORJECTS LIMITED & ANR

..... Respondents
 Through Mr.Dhruv Dewan & Ms.Reena
 Coudhary, Advs.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **11.08.2017**

It is informed that the bank guarantees have been encashed.

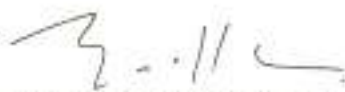
In view of the aforesaid position, present appeals are rendered
 infructuous.

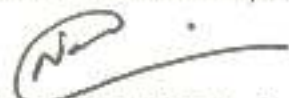
Learned Senior counsel appearing on behalf of the appellant submits
 that alternative prayer made in the present appeals is to the effect that, if the
 bank guarantee are encashed, order of injunction should be passed
 restraining respondent No.1 from utilizing the encashed bank guarantee
 amount in any manner whatsoever or return the same to respondent No.1
 bank. We are not inclined to accept the said prayer of the appellant, leaving

it open to the appellant to raise all contentions and issues before the Arbitrator or otherwise, in appropriate proceedings, if maintainable in accordance with the law. It is stated that independent Arbitrator is to be appointed by the Court and order on petition under Section 11 of Arbitration and Conciliation Act, 1996, in this regard, is reserved.

Acceptance of the alternative prayer would require adjudication and decision on the main dispute and lis between the parties. It would amount to in depth and final adjudication. Restraint from utilizing would have effect of attachment before judgment, and this would require appropriate and different pleading and a case being set up. The issue and contentions argued before us relate to and are restricted to encashment of bank guarantee.

With the aforesaid observation, appeals are disposed of.


SANJIV KHANNA, J.


NAVIN CHAWLA, J.

AUGUST 11, 2017/vp